

## **Remarks**

### ***Change of Title***

Applicants have amended the pending claims in the present application to be drawn to HCPCB26 polypeptide embodiments (to accommodate the Restriction Requirement mailed May 16, 2006, Paper No. 05022006; discussed below). As such, Applicants have also amended the Title of the present application to reflect the claimed polypeptide embodiments.

### ***Status of Claims***

Claims 3-6 and 10-14 have been canceled herein without prejudice or disclaimer. Applicants reserve the right to pursue subject matter encompassed by all canceled claims in one or more divisional or continuation applications. Claims 1 and 7 have been amended, while claims 15-21 have been added, to further expand the claimed embodiments of the elected subject matter. Amended claims 1 and 7, as well as, new claims 15-21 find support in the claims as originally filed and throughout the specification. Specifically, support for amended claims 1 and 7, as well as new claims 15-21 can be found, for example, at page 77, in Table 1A, at page 141-142, in Table 1B, and at page 203, in Table 2 (Gene 79, HCPCB26/SEQ ID NO:282); page 300 (95% identity); pages 320-321 (heterologous polypeptide); page 327, lines 13-15 (glycosylated polypeptides); Example 8, on pages 526-528 (expressing a polypeptide by a cell); Example 10, on pages 530-533 (identifying a binding partner of a polypeptide). Accordingly, no new matter has been added. Upon entry of the present amendment, claims 1, 2, 7-9, and 15-21 will be pending.

## **Election**

A restriction requirement under 35 U.S.C. § 121 has been issued in which claims 1-14 were separated into 9 different groups. *See*, Paper No. 05022006, pages 2-3. In addition, the Examiner has also required election of a single nucleic acid or polypeptide, depending on the elected invention *See*, Paper No. 05022006, page 3.

In order to be fully responsive and to comply with the pending election requirement, Applicants herein elect claims embodying the subject matter currently restricted to Group VI (*i.e.*, drawn to the isolated polypeptides of claims 7-8), for further prosecution. Additionally, to comply with the Examiner's request for election of a single polypeptide sequence, Applicants note that the elected claims are drawn to HCPCB26/SEQ ID NO:282 polypeptides. *See e.g.*, page 77, Table 1A. Applicants reserve the right to file one or more continuation or divisional

applications directed to non-elected inventions should the restriction requirement be made final. Applicants note that currently pending claims 7, 8, and 15-20 are directed to subject matter falling within the ambit of Group VI as cast by the Examiner. Furthermore, claims 1, 2, 9, and 21 are directed to methods of making and using the product of the Group VI claims. If the restriction requirement is maintained, Applicants request rejoinder and examination of patentability of the claims falling within the ambit of Groups I and VII (process of use claims related to Group VI; *See*, page 8, Paper No. 05022006), once the claims of Group VI are found allowable.

The Examiner has also requested that Applicants point to the specific priority applications which disclose the elected invention. Applicants refer the Examiner to International Application No. PCT/US03/04819 and U.S. Provisional Application No. 60/358,554 for disclosure of the elected invention.

## Conclusion

Applicants respectfully request that the above-made remarks be entered and made of record in the file history of the instant application. In view of the foregoing amendments and remarks, Applicants believe that this application is now in condition for further examination. The Examiner is invited to call the undersigned at the phone number provided below if any further action by Applicant would expedite the examination of this application.

If there are any fees due in connection with the filing of this paper, please charge the fees to our Deposit Account No. 08-3425. If a fee is required for an extension of time under 37 C.F.R. § 1.136, such an extension is requested and the fee should also be charged to our Deposit Account.

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Respectfully submitted,

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